

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 22723 PERMIT 15723 LICENSE

ORDER REDUCING RATE OF DIVERSION,
REDUCING STORAGE SEASON AND
APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 15723 was issued to W.W. Kelly on October 29, 1968 pursuant to Application 22723.
2. Permit 15723 was subsequently assigned to Sharon M. Morris, Nancy A. Simonsen and Carol J. Kelly.
3. The purpose of use has been corrected to add stockwatering use under Section 798, of the California Code of Regulations.
4. A protest was filed with the State Water Resources Control Board (State Water Board) by the Department of Fish and Game (DFG) on March 14, 1991 which recommended Permit 15723 (Application 22723) be revoked due to the permittee's failure to comply with permit terms relative to completion of construction within the two years, failure to complete the permitted project within three years, and an adverse environmental impact of eventual project completion.
5. A request to extend the time frame under Permit Term 16 for receipt of final approval of subdivision plans was filed with the State Water Board by letter dated April 23, 1992.
6. A letter prepared by the State Water Board dated February 11, 1992 set forth the maximum diversion rate and storage season agreed to by the permittee and DFG.
7. The State Water Board has determined the above correction of the purpose of use, reduction in the rate of diversion and storage season and an extension of time to submit evidence of final approval per subdivision plans will not operate to the injury of any other lawful user of water and that good and sufficient cause has been shown.
8. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Board.
9. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The purposes of use under this permit shall be as follows:

Stockwatering, Municipal, Recreation, and Irrigation.

2. Condition 5 of the permit be amended to read:

The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 0.31 cubic feet per second by direct diversion to be diverted from June 1 to March 30 of each year, 0.155 cubic feet per second by direct diversion to be diverted from April 1 to May 31 of each year and 20 acre-feet per annum by storage to be collected from about October 1 of each year to about March 30 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005)

2. Condition 8 of the permit be amended to read:


CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE December 31, 1997 (0000008)


3. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE December 31, 2001 (0000009)

4. Condition 16 of this permit be amended to read:

Permittee shall submit evidence to the State Water Board of final approval for the subdivision plans on or before December 31, 1996.

Dated:  JUNE 20 1992

for 
Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 22723

PERMIT 15723

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. Permit 15723 was issued to W.W. Kelly on October 29, 1968.
2. Permit 15723 was subsequently assigned to Sharon M. Morris, Nancy A. Simonsen and Carol J. Kelly.
3. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for extension of time.
5. The permit Condition 11 pertaining to the continuing authority of the Board does not conform to the current common law public trust doctrine as contained in Title 23, California Code of Regulations, Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1990 (0000007)

2. Condition 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1992 (0000008)

3. Condition 11 of this permit is deleted. A new condition 11 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

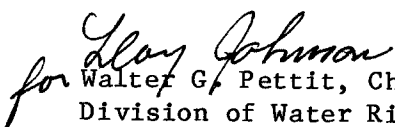
The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

4. Condition 16 is added to this permit as follows:

Permittee shall submit evidence to the Board of final approval for the subdivision plans on or before December 31, 1990.

Dated: OCTOBER 04 1988


for Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 22723

PERMIT 15723

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 1, 1985

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1986

Dated: MARCH 15 1984

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 22723 PERMIT 15723 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE, AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 8 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 1, 1982

2. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1983

3. Paragraph 14 of this permit is as follows:

Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

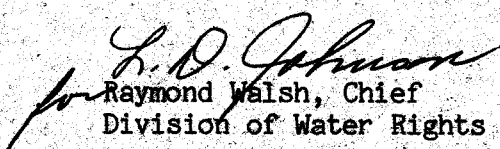
The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and

operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

4. Paragraph 15 is added to this permit as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Dated: NOVEMBER 13 1981


Raymond Walsh, Chief
Division of Water Rights

operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and appropriate to the particular situation.

It is added to this permit as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Dated: NOVEMBER 13 1981

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT NO. 15723

Application 22723 of W. W. Kelly over

c/o Ilmars Lagzdins, Civil Engineer, 212 J Street, Eureka, California 95501

filed on March 10, 1967, has been approved by the State Water Resources Control Board
SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Wilson Creek

Pacific Ocean

2. Location of point of diversion:

	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
<u>Reservoir S 2,050' and W 150' from NE corner of Section 18</u>	SE ¼ of NE ¼	18	14N	1E	H
<u>Wells-underflow S 2,150' and W 100' from NE corner of Section 18</u>	SE ¼ of NE ¼	18	14N	1E	H
	¼ of ¼				
	¼ of ¼				
	¼ of ¼				
	¼ of ¼				

County of Del Norte

3. Place of use: Subdivision in Sections 7, 17, 18, 19, and 20; reservoir in Section
18; and irrigation of 18 acres with 12 acre golf course in Section 18 and 6 acre
trailer park in Section 20, T14N, R1E, HB&M, as shown on map on file with the State
Water Resources Control Board.

4. Purpose of use: Municipal, irrigation, and recreational.

5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 1.75 cubic feet per second by direct diversion to be diverted from January 1 to December 31 of each year and 20 acre-feet per annum by storage to be collected from about October 1 of each year to about May 31 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses for any other purpose.

6. The maximum quantity herein stated may be reduced in the license if investigation warrants.

7. Actual construction work shall begin on or before June 1, 1969, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

8. Said construction work shall be completed on or before December 1, 1971.

9. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

10. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

11. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

12. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

13. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: OCT 29 1968

STATE WATER RESOURCES CONTROL BOARD

K. J. Whelan
Chief, Division of Water Rights

P15723

12-24-79 Asgce to Sharon M. Morris, Nancy A
Simonsen + Carol J. Kelly